

.@ccianet explains why the @FCC shouldn't trust AT&T's promises - it has a history of breaking them  
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### AT&T's Lies, Damn Lies And False Commitments:

It's fascinating to watch AT&T's evolving PR response to its proposed merger with T-Mobile. Their efforts appear more desperate by the day. AT&T has pivoted from talking about the merger in terms of competition policy and antitrust economics, where its arguments have been seemingly rejected by the DOJ and the FCC, to projecting hypothetical employment gains and investment creation that the merger will supposedly bring.

In response to letters submitted to the FCC by the public interest groups Public Knowledge and Free Press that poked gaping holes in AT&T's claim that the merger would lead to employment and investment gains, AT&T submitted its own letter to the FCC that responded to its critics by pointing to a series of "commitments" the company made. These include a pledge to bring outsourced call center jobs back to the United States, a promise to not fire any redundant non-management T-Mobile employees and a commitment to invest in its own infrastructure. Although the veracity of these commitments will be addressed later, there are many reasons why these commitments, even if taken at face value, are either misleading or irrelevant:

? The employment reality is that mergers, and particularly horizontal mergers like this one, almost invariably result in job losses. Why? Simply put, because that is the whole point of the merger. When combining two companies that do the same thing, the value of the merger comes from streamlining the redundant parts of each companies' operations and cutting costs. AT&T even insinuated as much to Wall Street when they discussed the great synergies between the two companies before it decided that it was time to change its messaging. AT&T has also admitted that "force reductions" will occur. To put this merger in historical perspective, 107,000 jobs have been lost on account of AT&T's mergers since 2002.

? AT&T's investment arguments are also misleading. AT&T's prime argument to regulators for allowing this merger to be consummated despite its substantial negative market effects is that combining the two companies' infrastructure is necessary to expand the company's LTE coverage from 80 percent to 97 percent of the nation. However, in a document accidentally released by AT&T's own law firm, the company revealed that it could achieve the same coverage by investing slightly less than \$3.8 billion -- less than 10 percent of the cost of the merger (without shipping \$39 billion abroad!). Furthermore when factoring in T-Mobile's likely future investments as an independent company, the effects of this merger are likely to sum up to a net loss.

? Merger review is a cost benefit analysis for regulators. When clear negative effects are likely,

significant efficiencies must be present and obvious (usually paired with structural and behavioral merger conditions) to offset the negative factors if the merger is to be approved. To be considering efficiencies, they must be merger-specific. Although this might seem obvious, AT&T's "commitments" on jobs and investment can be achieved without the consummation of this merger and without eliminating a hugely important competitor. Nothing is stopping AT&T from bringing the 5,000 call center jobs it outsourced back into the United States now, and AT&T will likely have more incentive to invest if this merger is not allowed.

? Regulators should focus on market structure, not hollow commitments, as the true test of what is in the public interest. A dynamic, competitive market that encourages innovation and competition is better for the economy than a highly concentrated market with high barriers to entry, even if some short-term "concessions" are offered. As Jonathan Baker, the FCC's chief economist said the Commission's "charge to promote the public interest in the communications sector encompasses a mandate to foster competition." The fact that AT&T is "committing" to maintain otherwise inefficient levels of employment post-merger is more testimony to the monopoly profits they plan to receive from decreased competition than anything else.

Finally, the credibility of the commitments themselves is highly questionable. They are not legally binding, and companies that are aggressively pushing for a merger have a long history of failing to deliver on their promises. For example, Delta's CEO was adamant that its proposed merger with Northwest Airlines would increase the company's dedication to serving rural airports. In fact, this was a primary concern of the Chairman of the Senate Antitrust Subcommittee, Herb Kohl, who emphasized his worries in a letter to the DOJ. With reassurances from Delta, the merger was allowed to proceed. Three years later, Delta announced it was discontinuing coverage to over 20 rural airports. In a similar example in the UK, Kraft promised regulators that job losses would not result from its merger with Cadbury, and the company made specific commitments on factories it would keep open. Unsurprisingly, Kraft reneged on its commitment. Surprisingly, it only took the company a week to do so.

Another example of broken commitments is the case of the Sirius and XM satellite radio merger. As a straight 2 to 1 merger, regulators were extremely hesitant in giving their approval. However, in discussing the economics of the industry the CEO of Sirius guaranteed that the merged company would not raise prices beyond pre-merger levels and, in fact, would not have any incentive to do so. Even though these "commitments" were actually required conditions of the merger, a little more than a year later the company was already finding creative ways of reneging on its merger commitments. And despite the claims of Sirius's CEO that the merged company would actually have no incentive to raise prices, the company announced a price increase shortly after its official commitments expired. A class action lawsuit, which had been filed against the company by some of its customers as a result of the broken promises, was recently settled, but the government itself has little recourse and the

class action settlement was a small price to pay for a merger to a monopoly.

These are not the only examples of companies saying whatever regulators want to hear to get a merger approved, and AT&T itself has often fallen drastically short on living up to its promises to regulators.

The political expediency clearly evident in the timing of AT&T's job and investment commitments should give politicians and regulators pause as well. If AT&T is so quick to change its messaging to dovetail with the political rhetoric du jour, why should they follow through after they get what they want and the public spotlight has moved on? Politicians, regulators and company executives all turnover frequently and companies can easily claim that broken promises are the result of unforeseen circumstances, thus giving them political cover for going back on their word. As a result, regulators should take AT&T's commitments with a grain of salt and focus on historical evidence and market structure, which strongly caution against approving this merger.